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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,104	11/14/2003	Peter Rabinovitch	3465-Z	8217

7590 08/01/2007  
Law Office of Jim Zegeer  
Suite 108  
801 North Pitt Street  
Alexandria, VA 22314

EXAMINER

POLLACK, MELVIN H

ART UNIT	PAPER NUMBER
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2145

MAIL DATE	DELIVERY MODE
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08/01/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/712,104

Applicant(s)

RABINOVITCH, PETER

Examiner

Melvin H. Pollack

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/5/04</u> . | 6) <input checked="" type="checkbox"/> Other: <u>see attached office action</u> .       |

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because it is too long. Correction is required.

See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4, 7, 12-20, and 25-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Syvanne (7,146,421).

5. Syvanne teaches a method and system (abstract) of providing a collection of nodes to perform routing (col. 1, line 1 – col. 7, line 50) via a variety of connections and configurations (col. 16, line 20 – col. 18, line 5), wherein packets are distributed based on a tag within a packet

Art Unit: 2145

header (col. 7, lines 45-65; col. 11, lines 15-55) to create load balancing (col. 8, lines 1-20). In particular, functional blocks are routed based on tags (col. 8, lines 20-55), with backups produced for resiliency to failure (col. 8, lines 55-60), and thus producing a routing capacity of type  $O(N)$  (col. 9, lines 3-65).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5, 6, 11, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Syvanne as applied to claim 1 and 17 above, and further in view of Wirth et al. (7,170,895).

8. Syvanne does not expressly disclose a toroidal, 3-dimensional, bus topology. Wirth teaches a method and system (abstract) of network switching nodes (col. 1, line 1 – col. 6, line 45; col. 16, line 55 – col. 17, line 20) that teaches this limitation (col. 6, line 45 – col. 9, line 40, esp. col. 7, lines 10-30). At the time the invention was made, one of ordinary skill in the art would have combined the inventions in order to provide further fault tolerance (col. 1, lines 50-60).

9. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Syvanne as applied to claim 1 above, and further in view of Dinker et al. (7,239,605).

10. Syvanne does not expressly disclose the usage of manager backup nodes, although it does disclose a backup node system (see above). Dinker teaches a method and system (abstract) of

Art Unit: 2145

providing to a cluster node topology a backup process (col. 1, line 1 – col. 4, line 50; col. 12, line 60 – col. 13, line 5) in which the limitations are disclosed (col. 4, line 50 – col. 8, line 20). At the time the invention was made, one of ordinary skill in the art would have added Dinker in order to ensure self-healing in times of high demand (col. 1, lines 35 – 60).

11. Claims 10 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Syvanne as applied to claims 1 and 17 above, and further in view of Colrain et al. (7,069,317).

12. Syvanne does not expressly disclose configuring and reporting out of band. Colrain teaches a method and system (abstract) of node management (col. 1, line 1 – col. 4, line 30; col. 12, lines 63 - 67) wherein changes and notifications are made out of band (col. 4, line 30 – col. 5, line 5). At the time the invention was made, one of ordinary skill in the art would have combined the inventions in order to better handle system failures (col. 2, lines 15-25).

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. They regard further teachings on router cluster nodes, failure resiliency, and load balancing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin H. Pollack whose telephone number is (571) 272-3887. The examiner can normally be reached on 8:00-4:30 M-F.

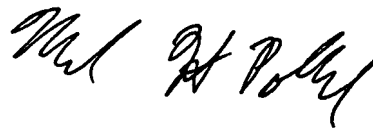
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2145

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melvin H Pollack  
Examiner  
Art Unit 2145

MHP  
26 July 2007

A handwritten signature in black ink, appearing to read "Mel H Pollack", is written over the printed name and title.